



4910-06-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA-2011-0085]

Petition for Waiver of Compliance

Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that on August 24, 2020, BNSF Railway Company (BNSF) petitioned the Federal Railroad Administration (FRA) to amend a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 213, Track Safety Standards. FRA assigned the petition Docket Number FRA-2011-0085.

Specifically, BNSF requests to modify its existing waiver from 49 CFR 213.109(d)(6) which allows for the use of concrete crossties with one shoulder broken off where, if turned end for end, every other crosstie is fastened 100 percent on both rails (“3/4 Concrete Ties”). BNSF seeks to: (1) amend the waiver locations to reflect BNSF’s historical practice under the waiver; and (2) clarify that multiple Gage Restraint Measurement System (GRMS) test platforms may be employed to test gage widening. BNSF’s proposal would effectively “grandfather” BNSF’s continued use of these types of crossties across six divisions throughout the BNSF operating system.

BNSF claims: (1) the performance of 3/4 Concrete Ties have not resulted in any derailments due to gage or defective crossties defects since the issuance of the waiver in 2011; (2) FRA has taken no exception to wide gage throughout BNSF’s use of 3/4

Concrete Ties in the past; and (3) foot-by-foot analysis by automated inspection show the 3/4 Concrete Ties remained stable and are not degrading.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at www.regulations.gov.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- Web site: <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- Fax: 202-493-2251.
- Mail: Docket Operations Facility, U.S. Department of Transportation (DOT), 1200 New Jersey Ave., SE, W12-140, Washington, DC 20590.
- Hand Delivery: 1200 New Jersey Ave., SE, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <https://www.transportation.gov/privacy>. See also <https://www.regulations.gov/privacyNotice> for the privacy notice of www.regulations.gov. Issued in Washington, DC.

John Karl Alexy,

Associate Administrator for Railroad Safety,

Chief Safety Officer.